

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MATCONUSA LP,

CASE NO. C19-1952JLR

Plaintiff,

## ORDER

V.

HOUSTON CASUALTY  
COMPANY, et al.,

## Defendants.

Before the court is Plaintiff MatconUSA LP’s (“Matcon”) motion for a limited reopening of discovery and for a trial continuance. (Mot. (Dkt. # 179).) Matcon states that the underlying lawsuit in King County Superior Court between it, Graham Construction & Management, Inc. (“Graham”), and Project Stewart LLC (“Project Stewart”) finally resolved on August 23, 2022. (*Id.* at 2-4.) Matcon asks the court to continue the trial date “to allow recognition of Matcon’s indemnity claims and to allow [Defendant] Houston Casualty [Company (“Houston”)] appropriate discovery into that

1 claim. (*Id.* at 1-2.) Houston opposes the motion. (Resp. (Dkt. # 186).) The court  
 2 reviewed the submissions of the parties, the relevant portions of the record, and the  
 3 applicable law, and heard argument from the parties during a Zoom.gov video conference  
 4 on August 30, 2022. (See 8/30/22 Min. Entry (Dkt. # 187).) Being fully advised, the  
 5 court made oral rulings on the record during that video conference. (*See id.*) The court  
 6 issues this order to memorialize those rulings.

7 1. The court GRANTS Matcon's motion for limited reopening of discovery  
 8 and to continue the trial date (Dkt. # 179). Pursuant to Federal Rule of Civil Procedure  
 9 16(b)(4), “[a] schedule may only be modified for good cause and with the judge’s  
 10 consent.” “Good cause” for purposes of Rule 16 focuses on the diligence of the party  
 11 seeking to modify the pretrial scheduling order. *Johnson v. Mammoth Recreations, Inc.*,  
 12 975 F.2d 604, 607-08 (9th Cir. 1992). To show “good cause,” a party must show that it  
 13 could not meet the deadline imposed by the scheduling order despite its diligence. *Id.* at  
 14 609. Here, the court is satisfied that the unexpected final resolution of the Underlying  
 15 Lawsuit just days before trial was beyond Matcon’s control. The court further finds that  
 16 the interests of judicial efficiency and avoiding piecemeal litigation would be advanced  
 17 by allowing Matcon to bring its claim for indemnity benefits in this lawsuit.

18 2. The court VACATES the September 12, 2022 trial date, the Pretrial Order  
 19 (Dkt. # 183), and the deadlines set in the court’s August 23, 2022 Order (Dkt. # 178).

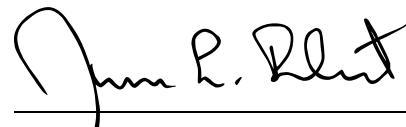
20 3. The court REOPENS discovery for the limited purpose of allowing  
 21 Houston to seek discovery regarding the settlement between Matcon, Graham, and  
 22 Project Stewart. Matcon and Houston are DIRECTED to meet and confer to develop a

1 plan for conducting this discovery. The parties shall file this discovery plan no later than  
2 Friday, September 9, 2022. The court will set a trial date and issue an amended  
3 scheduling order after it reviews the parties' discovery plan. The amended scheduling  
4 order will reset the dispositive motions deadline to allow the parties to file motions for  
5 summary judgment.

6 4. The court ORDERS Matcon to supplement its initial disclosures with a  
7 computation of the damages that it is seeking in this lawsuit, consistent with Federal Rule  
8 of Civil Procedure 26(a)(1)(A)(iii). Matcon shall supplement its initial disclosures by no  
9 later than Wednesday, September 7, 2022, and shall file a copy of the initial disclosures  
10 pleading on the docket.

11 5. Matcon orally renewed its motion for entry of final judgment pursuant to  
12 Federal Rule of Civil Procedure 54(b) as to its dismissed negligence claim against former  
13 Defendant Marsh USA Inc. ("Marsh"). (*See* MFR (Dkt. # 158) at 5.) Because the court  
14 is continuing trial, the court's earlier reasoning for denying Matcon's motion for entry of  
15 final judgment—that this matter would be fully resolved by mid-September—no longer  
16 applies. (*See* 8/26/22 Order (Dkt. # 184) at 10-12.) Therefore, finding no just reason for  
17 delay, the court GRANTS Matcon's renewed motion for entry final judgment as to its  
18 negligence claim against Marsh.

19 Dated this 30th day of August, 2022.

20   
21 \_\_\_\_\_  
22 JAMES L. ROBART  
United States District Judge